


ROUTLEDGE



# SEX CRIME IN THE NEWS



KEITH SOOTHILL & SYLVIA WALBY

# **Sex crime in the news**

**Keith Soothill and Sylvia Walby**



**London and New York**

First published in 1991

by Routledge

11 New Fetter Lane, London EC4P 4EE

Simultaneously published in the USA and Canada

by Routledge

a division of Routledge, Chapman and Hall Inc.

29 West 35th Street, New York, NY 10001

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Typeset by LaserScript Limited, Mitcham, Surrey

Printed and bound in Great Britain by Mackays of Chatham PLC, Kent

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*British Library Cataloguing in Publication Data*

Soothill, Keith, 1941—

Sex crime in the news.

1. Great Britain. Crimes. Rape. Social aspects

I. Title II. Walby, Sylvia

364.15320941

*Library of Congress Cataloging in Publication Data*

Soothill, Keith.

Sex crime in the news/Keith Soothill and Sylvia Walby.

p. cm.

Includes bibliographical references and index.

1. Sex crimes in the press—Great Britain. 2. Freedom of the press—Great Britain. 3. Privacy, Right of—Great Britain. 4. Sex crimes—Great Britain. 5. Crime journalism—Great Britain.

I. Walby, Sylvia. II. Title.

PN5124.S47S66 1990

070.4'49364153'0941—dc20

90-38051

CIP

ISBN 0-415-01815-3

0-415-05801-5 (pbk)

# Sex crime in the news

Newspaper reports of sex crimes have become increasingly sensationalist in recent years. Based on 5,000 newspapers from forty years of newspaper coverage, *Sex Crime in the News* is the first systematic study of such reporting. It reveals the misleading and trivialising nature of much of this coverage, with serious research reports on rape and discussions on law reform being given short shrift.

The number of sex crimes, especially rape, reported to the police has risen dramatically over the last few years, and there is much public and political concern about the issue, both from feminists and from the law-and-order lobby. Yet, as the authors show, the media typically ignore the wider issues which these groups raise, preferring to highlight a few unusual cases. Keith Soothill and Sylvia Walby examine the increasing gap between the reality of sexual abuse and the coverage it is given in the press, and they set their detailed empirical work within a context of broader concerns about the relationship between the media, the individual and the state.

Critical though it is of the press, *Sex Crime in the News* will be of special interest to people working in the media, and to legislators involved in debates about the press. It will also be of value to students on courses in women's studies, cultural and media studies, and deviancy.

Keith Soothill is Professor of Social Research in the Department of Applied Social Science at Lancaster University. Sylvia Walby is Lecturer in Sociology at the London School of Economics. They have both written widely on sex crimes and the related issues of gender relations and deviancy.

# Acknowledgements

We would like to thank the Nuffield Foundation for the grant which made the empirical work for this project possible; Sue Penna and Brenda Penn for help in carrying out some of the fieldwork; Chris Quinn for help in the preparation of the manuscript; the Department of Sociology at the University of Lancaster, where the project was originally based; and one of us would like to thank loved ones at home for allowing mountains of newsprint to remain around.

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## Introduction

It is a paradox that while sex crimes are popularly abhorred little action is taken against the majority of offenders. We know that the majority of women who are raped do not approach the police for fear of the judicial procedure they may face and the publicity they may have to endure. We know that in 1987 only 18 per cent of these complaints ended in the conviction of a rapist.<sup>1</sup> Yet simultaneously rapists, and indeed all men who commit violent sexual offences, are regarded as particularly villainous by the majority of the population, and these crimes have a high priority in the public's demand for law and order. Why is such a hated crime dealt with so ineffectively?

One of the themes of the book is to explore how this contradiction is negotiated in popular discourse via an examination of newspapers. What is the image of sex crime which is portrayed in the press? Why does most of the coverage focus on the very few disturbed serial rapists, rather than typical rape? How is it that the majority of people are given such a highly distorted overall picture of the nature and incidence of sexual violence? How does the manner and level of reporting affect women's fear of crime?

There have been major changes in both the interface of the police and raped women and in the media coverage. Firstly, we are seeing a dramatically increased number of rapes being processed by the police and courts. Secondly, there have been major changes in the amount of rape reported in the press.

A second major theme is with the viability of a variety of policy options to control the negative aspects of press reporting of sex crimes, especially rape. This practical reference frames our discussion of the newspaper reporting. Hence we examine the issues surrounding the development of legislative and other means of intervening in the press.

## **Changes in reporting of crimes of sexual violence to the police**

There has been a significant increase in the amount of sexual violence reported to the police. The number of rapes reported to the police increased from 1,015 in 1977 to 2,471 in 1987, an increase of 143 per cent.<sup>2</sup>

However, since the majority of rapes are not reported to the police, it is difficult to interpret these figures. On the one hand they could indicate a large increase in the level of rape. On the other they could indicate that more women are reporting the crime. If the former is correct then we are seeing an enormous increase in the use of violence against women. If the latter then perhaps we are seeing a reduction in the distrust women have for the police in relation to their handling of rape, or maybe the greater ability of women to withstand the trauma of carrying through a complaint of rape.

However, while the increase in the rate of rape reporting has increased, the rate of conviction has declined. In 1977 32 per cent of rape complaints were concluded by conviction of the rapist, while in 1987 only 18 per cent were similarly convicted.<sup>3</sup> The rate of increase of convicted rapists is 39 per cent as against an increase in rape reports of 143 per cent. If we take the former interpretation of the increase in rape reporting then this would mean that not only are more men raping, but also the judiciary is increasingly allowing them to get away with it. If it is the latter, then we are seeing a constant rate of rape over the last decade but where women are more willing to make legal complaints and the police and courts not willing to convict other than a very small increase in the number.

A similar but less marked pattern is to be found in other cases of sexual violence. The reported cases of indecent or sexual assault increased by 21 per cent over the 1977-87 decade, while the number of men convicted rose by only 2 per cent, a decline in the conviction rate from 31 per cent to 26 per cent.<sup>4</sup> In the same decade reports of incest increased by 73 per cent, while the number of those convicted rose by 55 per cent, a decline in the conviction rate from 53 per cent to 48 per cent.<sup>5</sup>

Whichever way we look at these figures, whether we believe they represent a real increase in the rate of sexual violence or not, the decreasing conviction rate indicates that the state has not effectively responded to demands that sex crimes be treated more seriously. Yet there has been sustained pressure from two political directions to do so. The first is that of feminist campaigners based, not only in rape crisis centres and refuges, but also in specialist lobby groups such as Women Against Rape and Women Against Violence Against Women. The second is the law and order lobby of the right, which is also picking up



on demands that the law be tougher with rapists and other violent criminals. So why has it not led to a rise in conviction rates?

The optimistic reading is that we have been successful, in that the number of men convicted of rape has increased over the last decade by 39 per cent in the case of rape, 2 per cent in the case of sexual assault, and 55 per cent in the case of incest. The pessimistic view is evidenced by the fact that the rate of conviction stemming from reported rapes has declined by 44 per cent in the case of rape, 16 per cent in the case of sexual assault and 9 per cent in the case of incest. Whether the increase in reported rates of sexual violence are positive or negative depends on whether they are considered to be real increases or higher rates of reporting.

### **Changes in press coverage**

There have been major increases in the amount of reporting of rape and other sex crimes in the media. The popular daily newspapers are much more likely to carry such stories today than twenty years ago. However, the reports are typically sensational and titillating, rather than serious accounts of these crimes. All manner of sexual detail is squeezed into these reports, anything from the previous sex life of a convicted rapist ('the savage between the sheets') to the newspapers' reading of the sexual history of the raped woman 'Para case girl was "sex maniac"'.<sup>6</sup>

This sort of press coverage is problematic for all manner of people. Firstly, the woman or girl who has suffered a sexual assault is made to suffer again by having sensationalist accounts of their ordeal blazoned to the entire nation, defeating attempts to forget. Secondly, the lives of others may be dragged through the media if they have been associated with a notorious rapist. Thirdly, the image of rape portrayed is misleading and may encourage mistaken beliefs by judges and juries, so that they do not convict in cases which fall outside this narrow stereotype.<sup>7</sup>

What do we think about this increased reporting? Is it good that rape is now reported, and its existence no longer denied? Is this coming into the open of crimes against women useful in assisting reforms in this area? Or are the stereotypes of rape portrayed by the press so narrow and unusual that they hinder the process of effective intervention by the state and others. Does the reporting raise women's fear of crime?<sup>8</sup> In a society where many women are afraid to walk alone at night does this increase in reporting increase women's fear still further? Do the rape reports encourage further rapes, by providing information to potential rapists? Does the pornographic nature of some of the reports encourage attitudes which facilitate rape?<sup>9</sup> Given that we have so little information about rape, does the increased press reporting, given its restricted nature, hinder the chance of a raped woman getting a fair 'trial'? Are juries

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increasingly inhibited from convicting men who are different from this stereotype? Does the press narrow popular conceptions of rape and make it more difficult for raped women to obtain justice? If the reports do contribute negatively, what should be done about it? Should they be compulsorily edited so as to be accurate and balanced, that is censored? Or is this going too far and risks losing more, in terms of freedom of speech, than we would gain?

These questions demonstrate the complexity of the freedom and control issue which are implicitly in discussion in many parts of the world.

### **National differences**

The balance between press freedom and control over problematic reportage varies between different countries. In the USA press freedom is held up as sovereign. The First Amendment of the Constitution about freedom of speech and the press not only symbolises this commitment, but also is used to defend this position in the courts,<sup>10</sup> though even here there are some limits. In Scandinavia the interests of the victim of sexual attack are given highest priority. In Sweden the press engages in comparatively little coverage of sex crimes, with the exception of the most popular evening papers.<sup>11</sup> Britain is in between with more constraints upon the media than happens in the USA, but more press reporting than in many Scandinavian countries. The British 'compromise' is in practice closer to the American than Scandinavian model.

### **British legislation**

In 1976 Britain, or more strictly England and Wales, introduced legislation which sought to control the worst excesses of the press and the courts in relation to rape. The press was banned from publishing the name of the raped woman and the courts were prohibited from enquiring into her previous sexual history except at the discretion of the judge.

This legislation has had a limited effect, as we shall show. We evaluated the effect of the 1976 legislation on the issue of the anonymity of the rape survivor; on the basis of press reporting in 1978, we found that she was now most unlikely to be named, but identifying detail was still published.<sup>12</sup> Adler's study of eighty rape trials examined actual court procedure in detail, providing evidence on what actually happens rather than what should.<sup>13</sup> Adler found that despite the legislation a woman's sexual history was routinely introduced during a rape trial. This usually occurred indirectly, but none the less effectively introducing this information which Parliament had tried to rule out as admissible evidence. This practice did not strictly contravene the legislation since

there is a loophole which allowed the introduction of this line of questioning at the discretion of the judge, if the judge thought it was essential. It is this discretion that has been used routinely to allow questioning which Parliament had intended should be exceptional. This questioning is of direct relevance to press coverage because reporters use the courtroom as a major source of their information for their writing. When the judges allow the woman's sexual history to be heard in court, they allow it to be reported in the press.

### **Policy instruments**

The three main forms of regulation of press reporting of sexual offences are, firstly, that embodied in the Sexual Offences Amendment Act 1976, secondly, the Press Council administered Code of Practice, and thirdly, the libel laws. In the first the press is expressly refused permission to print the name of the raped woman. The Act also sought to restrict the extent to which a woman's prior sexual history could be used as admissible evidence in court, thus indirectly affecting the material available to the press to publish. In the second the press is restrained by its own professional Code of Practice not to misrepresent or mislead the public. In the third, the press faces financial penalties if anyone successfully sues the paper through the civil courts for defamation of character.

### **Studies of sexual violence**

Why do men rape and sexually assault women and girls? It is important to discuss the various explanations briefly, if only because these surface in the press in a variety of forms.

Classically these crimes have been seen as a result of a few mentally deranged men. They have had unfortunate childhoods in which they have been neglected and brutalised. They grow up unbalanced, and need only minor frustrations or the stimulus of pornography to tip them into an orgy of violence against women and girls. There are occasional academic studies which appear at first glance to support such interpretations, such as that of West, Roy and Nichols.<sup>14</sup> But on closer examination it can usually be found that they have used very selected samples that are not representative of sexual offenders as a whole. For instance, the West, Roy and Nichols study looked at the cases of men who had already been incarcerated in an institution for mentally ill offenders – they were not a random sample of even those few rapists who are convicted.

A second explanation is in terms of the frustrations that men of the disadvantaged classes and ethnic groups suffer in a class-based and racist society.<sup>15</sup> These socially and economically deprived men are

considered to develop alternative social values in consequence of being excluded from the possibility of success in terms of the mainstream society. These values include a macho version of masculinity and an embracing of violence. Women suffer from the resulting behaviour. The problem with this type of explanation is that it fails to explain why women, who are surely more deprived than men, do not also engage in violent acts. In fact women are significantly less violent than men, suggesting that frustration with socio-economic deprivation is not a sufficient explanation.

Both these explanations fail to deal with the generalised nature of aggressive actions by men towards women. There is a wide range of sexually aggressive actions from men to women which form a continuum from sex murders through rape and sexual assault to sexual harassment and flashing to wolf whistling.<sup>16</sup> To understand this we must turn to explanations at the level of social relations in a sexist society. These acts can be traced to a plethora of practices which encourage sexually aggressive behaviour in men and boys, in a context in which there are few effective sanctions.<sup>17</sup> Not only pornography, but also the general denigration of women, has been implicated in the construction of male sexual scripts in which aggression is seen as a positive masculine quality. Further, the failure of the police and courts to prosecute and convict more than a small proportion of rapists means that there is little effective legal deterrent. Recent feminist work has focused not only on the continuum of male sexual violence,<sup>18</sup> but also on the serial rapists<sup>19</sup> and sex murderers.<sup>20</sup>

### **The politicisation of crimes of sexual violence**

Sex crimes against women have emerged on to the political agenda over the last twenty years. This can be traced to two, radically different, political forces. Firstly, feminism; secondly, the right wing law and order lobby.

Feminists have launched major political campaigns about male violence and backed these up with the establishment of national networks of centres to help those who have suffered male violence.<sup>21</sup> The 1970s and 1980s saw the setting up of rape crisis centres, refuges for battered women, groups for incest survivors, and a host of local and national campaigning groups including Women Against Rape, Women Against Violence Against Women, and the Women's Aid Federation. They have extended their protests to the legal process and judges' behaviour in court. Feminist debates on the control of representations of sexual violence are examined below.

The law and order lobby has grown in strength during the Conservative ascendancy. While it is closely associated with the Conservatives,

it is not to be simply equated with the Conservative Party, and indeed, sometimes acts as a lobby within that party for stronger intervention against crime. For instance, the Home Secretary is regularly criticised for leniency on such issues from this lobby at the Conservative Party conferences.<sup>22</sup> The place of 'Thatcherism' in these issues is discussed below.

Interestingly women form a disproportionately large section of the law and order lobby. Campbell<sup>23</sup> suggests that this is due to their own recognition, as vulnerable women, of the problem of male violence and thus wish to have it controlled. Hence, it is women in particular, though not alone, who have raised the issue of criminal violence, but with radically different policy proposals. Feminists tend to start by asking the survivors of this violence what they want and need, and hence have focused their efforts on assisting these women, often with considerable amounts of voluntary labour. The law and order lobby, in contrast, focuses on deterring the offender with ever harsher punishments.

### **A brief history of recent reforms**

The recent changes in police practice and courtroom procedure stem from this politicisation of sexual assault in the 1970s and 1980s. The first set of changes in this period led to the Sexual Offences Amendment Act in 1976; the second led to Home Office guidelines on revised police procedures in 1983 (and later 1986).

While there had been a lot of activity by feminists regarding questions of rape in the early 1970s, it was the Morgan case<sup>24</sup> which was the focus of the mainstream public debate prior to the 1976 Act. In this way, some of the concerns of the women's movement gained a more public stage. The Morgan case created a legal debate which produced some contortions of legal reasoning. In this case the judge held that a man is not guilty of rape if he has sexual intercourse with a woman who does not consent to it if he believes she does consent, whether his belief is based on reasonable grounds or not. That is, the woman's experience of rape was deemed irrelevant to the question as to whether she was legally raped, since this depends upon the man's state of mind. It was this statement of the law which led to outcries that it was a 'Rapist's Charter'.<sup>25</sup> Eventually, however, all four men were convicted, but this did not settle the legal issue at stake.

The Morgan case was one of several which generated controversy. For example, in the Stapleton case in 1975 the defendant was acquitted of rape despite the fact that even the judge in passing sentence had said: 'I have no doubt you instilled terror into this woman when you went into that room and made your intentions quite clear'.<sup>26</sup> Another controversy

was caused by Justice Stevenson effectively blaming the woman for getting raped because she had hitched a lift, giving the rapist only a suspended sentence, and summing up thus – “It was, as rape goes, a pretty anaemic affair. The man has made a fool of himself, but the girl was almost equally stupid. This practice of hitch-hiking must be stopped”.<sup>27</sup>

Following the Morgan controversy the Home Secretary appointed an Advisory Group chaired by Justice Rose Heilbron to consider the law of rape in June 1975.<sup>28</sup> This led to the Sexual Offences (Amendment) Act in 1976.

One of the issues in the passage of this legislation was that of the anonymity of raped women and girls, although the nearly all-male Parliament was also concerned about anonymity for the accused men. In the summer of 1974 there had been several questions regarding the possibility of anonymity in rape cases.<sup>29</sup> In answer to questions the Home Secretary at this time had stated that this was an issue for individual courts to make requests of the press, not a matter for legislation. However, there were attempts at a private member's bill: the Rape (Anonymity of Victims) Bill was introduced by Mr F.P. Crowder,<sup>30</sup> and there was another in 1975 by Jack Ashley, stemming from concern that raped women were not reporting the crime because of fear of press publicity. This potential increase of reporting rape incidents became the main rationale for seeking anonymity for the victim.

The Heilbron Advisory Group confirmed these fears and maintained that “disclosure of a rape victim's name caused her great distress and also tended to discourage women from reporting alleged rape”.<sup>31</sup> Specifically the Heilbron Report did not recommend similar anonymity for defendants in rape cases. However, the Heilbron Report made no proposals to change the law on the issue which had been at stake in the Morgan case – that a man could escape a rape conviction if he thought that the woman was consenting whether she was or not. Thus while the original concern was not dealt with, other issues which had been raised earlier were.

During the parliamentary debates, the main feature was the male MPs' interest in the “equality” issue. Mr Rees-Davies suggested that “surely . . . if anonymity is to be given during a trial to the complainant, it should also be given to the accused”.<sup>32</sup> Others maintained that the ordeal of publicity was essential to “effectively test the veracity of a witness”.<sup>33</sup> The official Conservative Opposition was unenthusiastic about the Bill.<sup>34</sup> A specific interest of the almost entirely male chamber was to focus on the defendant. The tale of the prospective parliamentary candidate who, a few months before a General Election, was charged with a rape offence, and acquitted, haunted the debate and it was alleged that his whole prospective parliamentary career had been unnecessarily

ruined. This account helped the inclusion of anonymity for the rape defendant as well.

The Act also attempted to deal with the problem of the tendency of defence lawyers to pillory a woman if she had had any non-marital sexual experience.<sup>35</sup> This could in turn receive extensive media coverage. The Act thus attempted to control the admissibility of such evidence in the courtroom for reasons not only for its biasing effects upon a jury, but also for subsequent press coverage, which is often based on courtroom interaction. Further, it was hoped that if nothing happened during the trial which newspapers could turn into titillating copy for their readers, then there would be less incentive for the papers to give widespread coverage. Indeed, in the absence of titillating and embarrassing revelations, the need for anonymity becomes less pressing.

So why the demand for anonymity? The reformers were not merely considering the desire of actual rape victims to avoid publicity. In fact, how the rape survivor feels about her experience in the criminal justice process is more likely to be affected by what happens in the police station and then in the courtroom than how it is reported in the press. For the rape survivor the experience of the court interaction is likely to be primary and the media coverage is secondary; thus for such women and girls, anonymity in the media may be a minor reform compared to others in which they have an interest. However, the portrayal of raped women in the press may be considered likely to deter women from reporting rape to the police. Most women gain most of their knowledge of the criminal justice process from the media since few will have attended actual court cases or learnt from friends of what actually happens in the criminal justice system. The significance of the anonymity issue for many of the legal experts lies more with their own concern with getting more women to report rape, than with raped women's own priorities for legal change.

### **Reforms of police practice**

In the 1980s the focus of reform shifted from the press and courtroom to police practices. In 1982 a series of events highlighted the appalling treatment that raped women suffered at the hands of the police, leading to a public outcry and revised procedures.<sup>36</sup> The police handling of rape complaints was shown in a documentary on Thames television, with the approval of the police, suggesting that they saw no problem in this. Millions of viewers saw the vicious and disbelieving interrogation of a woman who went to the police saying she had been raped. This produced widespread and lasting protest. Police mishandling of the case of the 'Yorkshire Ripper', who was not caught despite the evidence available, was subject to scrutiny and complaints. Public protest followed a



judge who fined a rapist £2,000 after asserting that the woman had been guilty of contributory negligence by hitch-hiking. Prosecution decisions were criticised in the case of the 'Glasgow razor rape' case in which the authorities had refused to prosecute; the woman herself then successfully undertook a private prosecution.

Each of these incidents provoked widespread protest, not confined to the feminist groups which focused on issues of sexual violence. In this context of public protest the Home Office issued guidelines on how the police should behave in cases of rape complaints. The protest had succeeded in forcing a change in police policy.<sup>37</sup>

A number of changes have taken place, and a number of experimental schemes introduced. These include the setting up in some areas of special rooms and facilities where cases of sexual assault can be dealt with, the training of police by Rape Crisis groups, and some specialist police units.<sup>38</sup> The first of these has involved the so-called 'rape suites', a set of rooms away from the main police station, often including shower, examination room, waiting-room and kitchen. Sometimes they are purpose built (Wiltshire and London), sometimes specially furnished rooms in police stations (Northamptonshire), sometimes separate rooms in hospitals (Hampshire). In Manchester there has been a major development of a Sexual Assault Referral Centre, jointly funded by the police and hospital authorities. This has all the facilities mentioned above, and in addition uses a medical model of the treatment of rape.<sup>39</sup> It offers counselling as well as physical medical support. Special police units have been set up in some areas, usually but not always staffed by women police officers. These exist in Glasgow, Leeds and Bradford, Huddersfield, and Worthing.<sup>40</sup> Furthermore, many police forces now receive specialist training in dealing with victims of sexual assault, often provided by members of Rape Crisis Lines. Victim-support services for the victims of all crimes are now being set up and funded by the Home Office.<sup>41</sup> This involves talking to those who have suffered crimes recently, including sexual assault.

Most of these developments have bypassed the work of the established Rape Crisis Lines, which have been developing expertise in the counselling of women who have suffered sexual assault. These Rape Crisis groups usually draw extensively on the experience and sense of priorities of women who have been raped. This bypassing of these groups leads to a worrying loss of expertise, for what appears to be political reasons, namely, that the Rape Crisis Lines have radical politics.

## **Feminism, censorship and the state**

The control of rape reporting by the state raises some of the same issues



as that concerning the control of pornography. That is, the debates raise difficult issues on censorship. There are parallels with the 'porn the theory, rape the practice' debate, and the censorship debate in feminism.<sup>42</sup> Newspaper reports of rape are not usually thought of as pornography, though sometimes they are in effect. Should the same debates apply to this? Many of the writers within this debate assume that there is a choice between censorship and freedom of speech. In relation to the material we are discussing there are already forms of legal restriction over the material which constitute regulation, though this is not usually called censorship. If pornography were to be restricted legally the mechanisms would likely to be similar to those which already affect rape reporting, so their use is relevant to both issues.

The feminist debate on censorship, as for instance caught in the collection edited by Chester and Dickey, involves many complex issues of the relationship between representations and practice.<sup>43</sup>

Does the portrayal of sexual violence have the effect of making it more likely? To most social scientists and policy makers this is the most important question about pornography, and is pertinent to our discussion of newspaper reports.<sup>44</sup> This question in relation to pornography has been central to government commissions on the availability of pornography in Britain, the USA and elsewhere. These commissions have drawn on expert opinion from the social science community, and found evidence for both sides.

On the one hand we can cite the experiments of social psychologists such as Malamuth, who state that an empirical correlation can be established between men's exposure to pornography and propensity to rape.<sup>45</sup> He and his colleagues performed a variety of laboratory experiments in which men's attitudes and responses to rape were tested before and after exposure to pornography. The means of measuring response varied from attitudinal statements to degree of penile tumescence. Malamuth's methods are rigorous and his analysis convincing.

On the other hand, theorists in the field of Cultural Studies caution against any simple notion that exposure of individuals to cultural representations modifies their behaviour.<sup>46</sup> Typically they regard such questions as untestable and, since unanswerable, not worth asking. Such scholars suggest that we should analyse pornographic representations as representations, not causes of social behaviour.<sup>47</sup> This does not necessarily imply acceptance of these images since they may be seen as unacceptable in their own right. That is, unacceptable as representations, whether or not they have effects on sexually violent behaviour. Kappeller<sup>48</sup> argues that pornography should be analysed as representation, and that it is degrading to women. And that is sufficient to argue against it.

The feminist debate on pornography often, but not always, links it to